



DEPARTMENT OF PERSONNEL

209 E. Musser Street, Room 101
Carson City, Nevada 89701-4204
(775) 684-0150
www.state.nv.us/personnel/

MEMO PERD #28/04

August 20, 2004

TO: Personnel Commission Members
Department Directors
Division Administrators
Agency Personnel Liaisons
Agency Personnel Representatives
Designees for Rules Distribution
Employee Representatives
Interested Parties

FROM: Jeanne Greene, Director
Department of Personnel

SUBJECT: NOTICE OF WORKSHOP AND HEARING Amendments to NAC 284

The regulation changes included with this memorandum are being proposed for adoption at the October 1, 2004, Personnel Commission meeting. This meeting will be held at 8:00 a.m. in the Grant Sawyer Building, 555 East Washington Avenue, Rm 4401, Las Vegas, Nevada and by video conference at the Legislative Building, Room 4100, 401 South Carson Street, Carson City, Nevada.

In order to review the proposed changes in the regulations and solicit comments from interested persons, a workshop will be held at 9:00 a.m. on September 13, 2004, at the Department of Transportation, 1263 South Stewart Street, Room 302, Carson City, Nevada and by video conference at the Department of Transportation, District I Office, 123 East Washington Avenue, Training Room B, Las Vegas, Nevada. An informational note precedes the regulations which explains the nature and purpose of the proposed change to the regulations.

Please circulate or post the enclosed *Notice of Workshop to Solicit Comments on Proposed Regulations* and *Notice of Hearing* along with the *text of the proposed regulations*, or otherwise notify your employees.

JG:sq



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**NOTICE OF WORKSHOP
TO SOLICIT COMMENTS ON PROPOSED TEMPORARY REGULATIONS AND
NOTICE OF HEARING
FOR THE ADOPTION AND AMENDMENT OF
TEMPORARY REGULATIONS OF THE STATE PERSONNEL DEPARTMENT**

Workshop Notice: The Department of Personnel, 209 East Musser Street, Carson City, Nevada, telephone number (775) 684-0119, is proposing the temporary adoption and, amendment of regulations pertaining to Chapter 284 of the Nevada Administrative Code.

A workshop has been set for 9:00 a.m. on September 13, 2004, at the Department of Transportation, 1263 S. Stewart Street, Room 302, Carson City, Nevada and via video conference at the Department of Transportation, District I Office, 123 E. Washington Avenue, Training Room B, Las Vegas, Nevada.

Action - Newly proposed rules for temporary adoption	NAC REGULATION
Issuing specificity of charges following termination of employment with the appointing authority.	NEW SECTION
Adjustment and retention of pay progression date; restoration of date of appointment and pay progression date.	NAC 284.182
Differential rate of pay for qualifying shift.	NAC 284.210
Longevity pay: Particular circumstances.	NAC 284.282
Reimbursement or prepayment for training or education	NAC 284.490
Annual leave: Credit upon reinstatement, rehiring, reemployment or transfer	NAC 284.5405
Layoffs: Calculation of seniority	NAC 284.632

A copy of all materials relating to the proposed regulations is included with this announcement. Additional copies may be obtained at the workshop or by contacting the Department of Personnel offices at 209 East Musser Street, Room 300, Carson City, Nevada, telephone number (775) 684-0119, or 555 East Washington Avenue, Suite 1400, Las Vegas, Nevada, telephone number (702) 486-2900. A reasonable fee for copying may be charged.

Hearing Notice: The Personnel Commission will hold a public hearing at 8:00 a.m. on October 1, 2004, in Las Vegas at the Grant Sawyer Building, 555 East Washington Avenue, Room 4412. A video conference link will also be available at the Legislative Building, 401 South Carson Street, Room 4100, Carson City, Nevada. The purpose of the hearing is to receive comments from all interested persons regarding the adoption and amendment of temporary regulations. If no person, who is directly affected by the proposed action, appears to

request time to make an oral presentation, the Personnel Commission may proceed immediately to act upon any written submissions.

- These regulations do not have a direct economic effect on any business or the public.
- Enforcement of these regulations may result in an increased cost.
- To our knowledge, these regulations do not overlap or duplicate the regulations of other State or local governmental agencies.
- These regulations do not establish any new fee or increase an existing fee.
- A statement of the need for and the purpose of the proposed regulations precedes the text of each regulation included in the attached document.

Persons wishing to comment upon the proposed action of the Personnel Commission may appear at the scheduled public hearing or may address their comments, data, views or arguments, in written form, to Shelley Blotter, Department of Personnel, 209 East Musser Street, Room 101, Carson City, Nevada 89701-4204. **Written submissions must be received by the Department of Personnel on or before September 7, 2004.** A copy of this notice and the regulations to be adopted, amended, or repealed will be on file at the State Library and Archives, 100 Stewart Street, Carson City, Nevada for inspection by members of the public during business hours. Additional copies of the notice and the regulations to be adopted or, amended will be available at the Department of Personnel, 209 East Musser Street, Room 300, Carson City, Nevada, or at the Department of Personnel, 555 East Washington Avenue, Las Vegas, Nevada, and in all counties in which an office of the agency is not maintained, at the main public library, for inspection and copying by members of the public during business hours. The text of each regulation will include the entire text of any section of the Nevada Administrative Code that is proposed for adoption or amendment. Copies will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either prior to adoption or within 30 days thereafter, will issue a concise statement of the principle reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption.

The notice of the Workshop and Hearing has been posted at the following locations:

CARSON CITY

Blasdel Building, 209 East Musser Street
Nevada State Library and Archives, 100 Stewart St.
Capitol Building, Main Floor
NDOT, Room 302, 1263 South Stewart Street

LAS VEGAS

Grant Sawyer State Office Building
555 East Washington Avenue

NDOT, Training Room A, 123 E. Washington Ave.

ALL STATE AGENCIES

ALL NEVADA COUNTY PUBLIC LIBRARIES

NOTE: *We are pleased to make reasonable accommodations for individuals with disabilities who wish to attend the meeting. If special arrangements for the meeting are necessary, please notify the Department of Personnel, in writing, at 209 East Musser Street, Room 101, Carson City, Nevada 89701-4204, or call Rachel Baker at (775) 684-0110, no later than five working days prior to the meeting.*

Section. 1. Chapter 284 of NAC is hereby amended by adding thereto a new section to read as follows:

Explanation of Proposed Change: This section, proposed by the Department of Motor Vehicles, allows an appointing authority to place in an employee's or former employee's file Specificity of Charges that would have been issued had the person remained employed with the appointing authority.

NEW SECTION. Issuing specificity of charges following termination of employment with the appointing authority.

- 1. In the event an appointing has initiated Specificity of Charges to suspend, demote or terminate an employee but is frustrated in the delivery of such Specificity of Charges by the employee's resignation or transfer to another State agency, the appointing authority may proceed with the delivery of the Specificity of Charges, as follows:**
 - (a) The Specificity of Charges must propose the action to have been taken against the employee had the employee not terminated employment with the appointing authority;**
 - (b) The Specificity of Charges must be mailed to the employee's or former employee's last known address by registered or certified mail, return receipt requested. A notice of rights to a departmental administrative hearing before the appointing authority's designated representative must be included with the Specificity of Charges; and**
 - (c) The subject employee must be afforded all the rights to respond to the charges as outlined in NAC 284.656, 1, b through l.**
- 2. If the appointing authority determines the action would have been taken against the employee, after the departmental administrative hearing results have been forwarded to the Director of the department for review, the Specificity of Charges may be forwarded to the Department of Personnel Records Division for inclusion in the subject employee's official Personnel file.**

Sec. 2. NAC 284.182 is hereby amended to read as follows:

Explanation of Proposed Change: This amendment, proposed by the Department of Personnel, changes the method used for adjusting an employee's pay progression date and clarifies the current regulation.

Adjustments will be made to a pay progression date only in full workday increments. The adjustment will be made on a calendar day basis rather than a workday basis.

NAC 284.182 Adjustment and retention of pay progression date; restoration of date of appointment and pay progression date. (NRS 284.065, 284.155, 284.175)

- 1. An employee receives a new pay progression date if he is:**
 - (a) Promoted to a position that results in an increase of two grades or more; or**
 - (b) Reinstated.**

2. An employee retains his **current** pay progression date if he is:
 - (a) Promoted to a position that results in an increase of one grade;
 - (b) In a position that is reclassified to a higher class as a result of an individual classification study or an occupational study;
 - (c) Transferred to a position without receiving an increase in grade;
 - (d) Reappointed to a position at a grade that he formerly held;
 - (e) Reemployed ~~[and has remained continuously employed]~~; or
 - (f) Demoted.
3. If a person who is eligible for military reemployment is reemployed, he retains the pay progression date held when he separated from this State for his service in the military.
4. If an employee was promoted but is being restored to his former position pursuant to the provisions of NAC 284.462, the date of appointment and pay progression date of the former position must be restored.
5. Except as otherwise provided in this subsection, an employee's pay progression date must be adjusted:
 - (a) To equal 1 year of full-time equivalent service for an employee who changes from full-time employment to part-time employment or from part-time employment to full-time employment; or
 - (b) On a day-for-day basis for the amount of time ~~[that he was unemployed if]~~ the employee:
 - (1) ~~[Is] Was separated from State service if the employee is~~ reemployed ~~[following a separation from state service]~~ within 1 year after the date on which he was laid off or received a seasonal separation.
 - (2) ~~[Is] Was separated from State service if the employee is~~ a person with a permanent disability arising from a disability related to work who is reemployed ~~[following a separation from state service]~~ within 1 year after the date on which he sustained the permanent disability as determined pursuant to NAC 284.6013.
 - (3) ~~[Is]:~~ ***Was on leave without pay or catastrophic leave if the employee is:***
 - (I) A nonexempt employee who is on leave without pay, or on catastrophic leave, in excess of 240 hours; or
 - (II) An exempt classified employee who is on leave without pay, or on catastrophic leave, in excess of 30 working days,in a year, except for leave without pay for a work-related injury or illness pursuant to NRS 281.390 or on a military leave of absence pursuant to NRS 284.359 or a leave of absence without pay during a fiscal emergency pursuant to NAC 284.580. ***If the total hours of leave without pay or catastrophic leave exceeding 240 hours is less than one full-time equivalent day for the pay class designation, an adjustment will not be made for those hours.*** An employee whose base hours are more than 80 hours biweekly must be allotted additional leave without pay and catastrophic leave in proportion to the base hours for his pay class designation. As used in this subparagraph, "year" means a period equal to 12 months of full-time equivalent service measured backward from the employee's pay progression date. ***If the employee continues to be on leave of absence without pay or catastrophic leave on his***

pay progression date, an adjustment will be made to his pay progression date once he returns to work.

[Personnel Div., Rule III part § G, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84; 8-28-85; 5-27-86; 8-22-86; 4-19-88; 7-21-89; 10-18-89; 3-27-92; 7-6-92; 9-16-92; 11-16-95; 3-1-96; 10-27-97; 10-27-97; R043-99, 9-27-99; R147-01, 1-22-2002; A by Personnel Comm'n by R182-03, 1-27-2004)

Sec. 3. NAC 284.210 is hereby amended to read as follows:

Explanation of Proposed Change: This amendment, proposed by the Department of Personnel, changes payment of shift differential. The change would allow employees who work a qualifying shift, and who are only in paid status for a portion of their shift, to be paid shift differential for the portion of their shift they are in paid status. Additionally, the change would provide shift differential to employees whose 8-hour shift is reduced to 7 hours due to daylight savings time.

NAC 284.210 Differential rate of pay for qualifying shift. (NRS 284.065, 284.155, 284.175)

1. As used in this section:

(a) "Differential rate of pay" means an adjustment in pay equivalent to an additional 5 percent of an employee's normal rate of pay.

(b) "Qualifying shift" means a period of work of 8 hours or more, of which 4 hours must fall between the hours of 6 p.m. and 7 a.m. *A "qualifying shift" includes a shift of 8 hours that is reduced to 7 hours due to daylight savings time.*

2. An employee is eligible for the differential rate of pay if he works in a unit which provides services requiring multiple shifts within a 24-hour period and he is:

(a) A nonexempt employee in the classified service who works:

(1) A qualifying shift; or

(2) Any shift of at least 8 hours that is other than a qualifying shift plus 4 or more hours between 6 p.m. and 7 a.m. In such cases, an employee must receive the differential rate of pay for only the hours worked between 6 p.m. and 7 a.m.

(b) An exempt classified employee assigned to a qualifying shift. In such cases, an employee must receive the differential rate of pay for all his regularly scheduled hours of employment on that workday.

3. If an employee is assigned to a qualifying shift when he is on paid leave or a holiday occurs, he must receive the differential rate of pay for that shift.

4. An employee assigned to a qualifying shift who is not in paid status for the entire shift must receive the differential rate of pay for the portion of the shift the employee is in paid status.

[4.] 5. A nonexempt employee in the classified service who works overtime pursuant to NRS 284.180 in conjunction with a qualifying shift must be paid overtime at the differential rate of pay.

[Personnel Div., Rule III § I, eff. 8-11-73; A 7-3-76]—(NAC A by Dep't of Personnel, eff. 12-17-87; 7-21-89; 3-23-94; 10-27-97; R031-98, 4-17-98; A by Personnel Comm'n by R065-98, 7-24-98; A by Dep't of Personnel by R098-99, 9-27-99; R147-01, 1-22-2002; A by Personnel Comm'n by R069-02, 8-14-2002)

Sec. 4. NAC 284.282 is hereby amended to read as follows:

Explanation of Proposed Change: This amendment, proposed by the Department of Personnel, allows employees who were reemployed pursuant to Senate Bill 37* of the 1999 Legislative Session, to receive credit for continuous service time prior to them leaving State service in addition to the time served after being reemployed for the calculation of longevity pay. This regulation will become effective upon filing with the Secretary of State and applies retroactively to January 1, 2000.

* As a result of SB 37, Employer's Insurance Company of Nevada went from a State agency to a private company effective January 1, 2000.

NAC 284.282 Longevity pay: Particular circumstances. (NRS 284.065, 284.155, 284.175, 284.345, 284.355, 284.3626)

1. Except as otherwise provided in NAC 284.580 for a leave of absence without pay during a fiscal emergency, an employee who is on leave without pay or catastrophic leave, or any combination of both, for the entire 6-month period of qualification is not entitled to longevity pay for that period.
2. The payment for longevity pay for a full-time employee will not be prorated pursuant to NAC 284.278 if:
 - (a) He is an exempt classified employee or exempt unclassified employee and he uses an amount of leave without pay or catastrophic leave, or any combination of both, that equals 30 days or less in a calendar year; or
 - (b) He is a nonexempt employee, the base hours established for his pay class designation are 40 hours per week or 80 hours biweekly and he uses 240 hours or less of leave without pay or catastrophic leave, or any combination of both, in a calendar year.
3. If the base hours established for a pay class designation exceed 40 hours per week or 80 hours biweekly, an employee in that pay class designation must be allotted leave without pay and catastrophic leave in proportion to his base hours and full-time equivalency. The longevity pay of such an employee will not be prorated unless his use of leave without pay and catastrophic leave proportionally exceeds the limits set forth in subsections 2 and 4.
4. A part-time employee must be allotted leave without pay and catastrophic leave in proportion to his base hours and the full-time equivalency for his pay class designation. The longevity pay of such an employee will not be prorated unless his use of leave without pay and catastrophic leave proportionally exceeds the limit set for a full-time employee in his pay class designation pursuant to subsection 2.
5. An employee who retires pursuant to the provisions of chapter 286 of NRS or who dies during the 6-month qualifying period is eligible for longevity pay according to the applicable formula in NAC 284.278.
6. An employee who is laid off and is rehired within 1 year after the date of layoff is eligible for the longevity pay he would have earned if he had not been laid off. The longevity pay must be calculated as if the employee had been on leave without pay pursuant to subsection 2.
7. ***An employee who is reemployed after 1 year pursuant to SB 37 of the 1999 Legislative Session is eligible for longevity pay based on the total of his continuous***

service just prior to leaving State service plus his continuous service after being reemployed by the State.

8. A person with a permanent disability arising from a disability related to work who is reemployed following a separation from state service within 1 year after the date on which he sustained the permanent disability as determined pursuant to NAC 284.6013 is eligible for the longevity pay he would have earned if he had not been separated from state service. The longevity pay of such an employee must be calculated as if the employee had been on leave without pay pursuant to subsection 2.
- ~~[8.]~~ 9. An employee is eligible to earn service credit for the calculation of longevity pay when he is receiving benefits for a temporary total disability pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS and he uses accrued sick leave, accrued annual leave or accrued compensatory time to meet the difference between his normal pay and the benefits he receives. Such an employee ceases to earn service credit for the calculation of longevity pay when he is placed on a leave of absence without pay or catastrophic leave.
- ~~[9.]~~ 10. Service in a seasonal position must be credited toward the calculation of longevity pay if the employee is employed on December 31 and June 30 and if the requirements for eligibility for longevity pay have been met. If an employee in a seasonal position is not on the payroll on those two dates and he is reemployed within 12 months, the employee is entitled to receive prorated longevity pay for his service during the previous longevity period.
- ~~[10.]~~ 11. If a person is on leave of absence without pay for military service pursuant to NRS 284.359 or is reemployed within 90 days after the military service, the time during which he was not in paid status because of his military service will be counted as service credit for the calculation of longevity pay. The person is eligible for longevity pay for the time he is in paid status in accordance with the provisions of subsection 2.
- ~~[11.]~~ 12. If a nonclassified employee or an employee covered by NRS 284.022 is appointed without a break in service to the classified or unclassified service, the previous time served is counted for the purpose of calculating longevity pay, but the employee is not eligible for any retroactive longevity pay.

[Personnel Div., Rule III § M subsec. 7, eff. 9-6-74; A and renumbered as subsec. 6, 2-5-82]—(NAC A by Dep't of Personnel, 10-26-84; 12-17-87; 7-14-88; 7-21-89; 9-13-91; 9-16-92; 11-12-93; 3-23-94; 7-1-94; 11-16-95; 3-1-96; 10-27-97; R031-98, 4-17-98; R147-01, 1-22-2002)

Sec. 5. NAC 284.490 is hereby amended to read as follows:

Explanation of Proposed Change: This amendment, proposed by the Department of Personnel, clarifies that the repayment of wages owed because of failure to successfully complete training or termination prior to 1 year following the training is the responsibility of the employee.

NAC284.490 Reimbursement or prepayment for training or education. (NRS 284.343)

1. If an employee receives approval to take training or education that he requested to take, including, without limitation, a course or workshop:
 - (a) The employing agency may reimburse the employee for the expense of the training or education only after his successful completion of the training; or
 - (b) The employing agency may elect to prepay the cost of the training or education.
2. An employing agency may enter into an agreement with an employee requiring the employee to repay any money paid to him or on his behalf for the cost of training or education if:
 - (a) The employee fails to complete the training successfully; or
 - (b) Within 1 year after the successful completion of training or education that is not required by his job, the employee terminates his employment with the agency.

Any repayment from wages owed ~~to the employing agency~~ **by the employee** must not be taken from any payment for overtime owed to the employee and must not reduce the pay of the employee below the minimum wage required by federal law.
3. For the purposes of this section, “successful completion of training and education” means:
 - (a) Receiving a grade of C or better;
 - (b) Receiving a passing grade if the students are designated only as passing or failing the course;
 - (c) Receiving a certificate of completion; or
 - (d) Receiving other evidence of completion as predetermined by the appointing authority.

[Personnel Div., Rule X § D, eff. 1-18-82]—(NAC A by Dep’t of Personnel, 10-26-84; R082-00, 8-2-2000)

Sec. 6. NAC 284.5405 is hereby amended to read as follows:

Explanation of Proposed Change: This amendment, proposed by the Department of Personnel, allows employees who were reemployed pursuant to Senate Bill 37* of the 1999 Legislative Session, to receive credit for continuous service time prior to them leaving State service in addition to the time served after being reemployed for the calculation of the employee's leave accrual rate. This regulation will become effective upon filing with the Secretary of State and applies retroactively to January 1, 2000.

* As a result of SB 37, Employer's Insurance Company of Nevada went from a State agency to a private company effective January 1, 2000.

NAC 284.5405 Annual leave: Credit upon reinstatement, rehiring, reemployment or transfer. (NRS 284.065, 284.155, 284.345, 284.350)

1. Except as otherwise provided in this section, any employee who returns to state service following a separation is eligible to accrue annual leave based on his total service with the State after he has completed 3 years of continuous service. The employee must requalify after each break in service.
2. An employee who is rehired within 1 year after being laid off accrues annual leave at a rate based on his total state service. He may use his annual leave immediately upon accruing it if he has completed 6 months of employment.
3. *An employee who is reemployed after 1 year pursuant to SB 37 of the 1999 Legislative Session accrues annual leave at a rate based on the total of his continuous service just prior to leaving State service plus his continuous service after being reemployed by the State.*
4. An employee with a permanent disability arising from a disability related to work who is reemployed following a separation from state service within 1 year after the date on which he sustained the permanent disability as determined pursuant to NAC 284.6013 accrues annual leave at a rate based on his total state service. He may use his annual leave immediately upon accruing it if he has completed 6 months of employment.
- ~~[4-]~~ 5. An employee who is rehired within 1 year after being laid off is entitled to buy back the balance of the annual leave for which he received payment in a lump sum on the date of the layoff. The rate of pay at which he is rehired applies to the buying back of annual leave.
- ~~[5-]~~ 6. An employee with a permanent disability arising from a disability related to work who is reemployed following a separation from state service within 1 year after the date on which he sustained the permanent disability as determined pursuant to NAC 284.6013 is entitled to buy back the balance of the annual leave for which he received payment in a lump sum at the time of separation. The rate of pay at which he is reemployed applies to the buying back of annual leave.
- ~~[6-]~~ 7. If an employee who was laid off before completing 6 months of employment is rehired within 1 year after his layoff, the amount of the unpaid annual leave he had earned before the layoff must be restored to him.
- ~~[7-]~~ 8. If a person eligible for military reemployment is reemployed, he accrues annual leave at the rate which he would have earned if he had not left state service.

~~[8.]~~ 9. If an employee is appointed without a break in service from a position under one appointing authority to a position under another appointing authority, the balance of his annual leave is charged to the agency to which he is appointed.

~~[9.]~~ 10. If a nonclassified employee, an unclassified employee of the University and Community College System of Nevada, or an employee included in the State Personnel System pursuant to NRS 284.022 is appointed without a break in service to the classified or unclassified service, his annual leave must be recomputed to reflect the amount that would have accrued to him as a classified or unclassified employee less any annual leave which he used during his nonclassified, University, or governmental agency employment, and the remaining balance will be transferred to the new appointment. The amount of annual leave transferred by the employee pursuant to this subsection may not exceed the maximum amount which is permitted by the classified or unclassified rate of accrual as set forth in NRS 284.350 and NAC 284.538. The agency to which the employee is appointed is not responsible for payment of any annual leave in excess of the amount which is transferable. It is the responsibility of the employee who is transferring annual leave to seek payment of any excess amount of annual leave remaining to his credit from his former employer.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A 8-28-85; 4-19-88; 3-27-92; 11-12-93; 3-1-96; R031-98, 4-17-98; A by Personnel Comm'n by R096-03, 10-30-2003)

Sec. 7. NAC 284.632 is hereby amended to read as follows:

Explanation of Proposed Change: This amendment, proposed by the Department of Personnel, allows employees who were reemployed pursuant to Senate Bill 37* of the 1999 Legislative Session, to receive credit for continuous service time prior to them leaving State service in addition to the time served after being reemployed for the calculation of the employee's seniority for purposes of layoff. This regulation will become effective upon filing with the Secretary of State and applies retroactively to January 1, 2000.

* As a result of SB 37, Employer's Insurance Company of Nevada went from a State agency to a private company effective January 1, 2000.

NAC 284.632 Layoffs: Calculation of seniority. (NRS 284.065, 284.155, 284.335, 284.380)

1. For the purposes of calculating an employee's seniority for NAC 284.614, 284.618 and 284.630:

(a) Except as otherwise provided in this section, the total number of years of continuous full-time equivalent service up to the effective date of the layoff must be included. *For employees that were reemployed pursuant to SB 37 of the 1999 Legislative Session an employee's continuous service just prior to leaving State service is added to his continuous service after being reemployed by the State.*

(b) Except as otherwise provided in subsection 2, the sum of the calculation made pursuant to paragraph (a) or, if applicable, subsection 5 must be reduced by the following periods if those periods occurred during the 36 months immediately preceding the date of the notification of layoff:

- (1) For a nonexempt employee, any combination of leave without pay and catastrophic leave in excess of 240 hours in a year;
 - (2) For an exempt classified employee or exempt unclassified employee, any combination of leave without pay and catastrophic leave in excess of 30 working days in a year; and
 - (3) Any time covered by a report on performance which rated the employee below standard except that no report on performance may be considered for the time covered within 75 calendar days before the notification of layoff was issued.
2. For the purposes of the reduction in the calculation of seniority required by paragraph (b) of subsection 1:
 - (a) The reduction may not include:
 - (1) A leave of absence without pay during a fiscal emergency of the State or an agency pursuant to NAC 284.580;
 - (2) A leave of absence without pay for a work-related injury or illness pursuant to NRS 281.390; or
 - (3) A military leave of absence pursuant to NRS 284.359.
 - (b) As set forth in subparagraphs (1) and (2) of paragraph (b) of subsection 1, an employee whose base hours are more than 80 hours biweekly must be allotted additional leave without pay and catastrophic leave in proportion to the base hours for his pay class designation.
3. Except as otherwise provided in subsection 4, if seniority is otherwise equal, seniority must be determined in the following order:
 - (a) Total time within the occupational group;
 - (b) Total time within the department; and
 - (c) By lot.
4. For the purposes of reemployment, if seniority is otherwise equal, seniority must be determined by lot.
5. A department may request from the Commission approval to calculate the number of years of continuous full-time equivalent service of an employee of the department by doubling the time spent by the employee in his present occupational group as categorized by NRS 284.171 and adding that amount to the time spent by the employee in all former occupational groups up to the date of layoff. If the Commission approves the request of the department to calculate the number of years of service pursuant to this section, the department shall use this method to calculate the number of years of service:
 - (a) Only to determine which employees will receive a layoff notice and not for the placement of those employees on the reemployment list; and
 - (b) Until the department seeks from and is granted approval by the Commission to revert to the method of calculating the number of years of service set forth in paragraph (a) of subsection 1.
6. As used in subparagraphs (1) and (2) of paragraph (b) of subsection 1, "year" means a period equal to 12 months of full-time equivalent service measured backward from the date of the notification of layoff.

(Added to NAC by Personnel Comm'n by R096-03, eff. 10-30-2003; A by R182-03, 1-27-2004)